



Department of the Secretary of State

Regulatory Fairness Board
Friday, February 24, 2012
1:00 – 3:00 p.m.

Meeting Notes

In attendance:

Board Members:

Charles E. Summers, Jr., Secretary of State -
Chairman
Mark A. Tyler, Oakland - Vice Chairman
Patricia Kuhl
Michael R. Cote
Jay Martin, Small Business Advocate

Other Attendees:

Barbara Redmond, Chief Deputy Secretary of State
Richard Grotton, President, Maine Restaurant Assoc.
25 members of the general public

The meeting opened with introductions.

Chairman Summers introduced **Mr. Richard Grotton**, President of the Maine Restaurant Association, who presented to the Board a summary of regulatory concerns and challenges facing Maine's restaurant industry. In summary, **Mr. Grotton** asserted the following:

1. Rulemaking by agency is in essence a "hidden legislature" adding burdens on businesses
2. Labor laws are extensive and complex
3. State and federal laws are too often in conflict
4. Maine's child labor laws are among the most restrictive in the nation
5. There exist too many state licenses, adding significantly to business costs
6. Liquor license requirements are particularly onerous
7. Music license fees are required from performance art unions such as ASCAP when playing recorded music, adding additional costs

Chairman Summers explained that the Board reports to the Legislature and Governor once each year. He stressed that Board will likely emphasize the top issues it identifies, so asked which ones he seeks to be remedied. **Mr. Grotton** stated that in general, when problems arise with regulatory agencies, they often meet to work out solutions. He believes the liquor licensing laws should be re-written. The Department of Agriculture and Department of Health and Human Services' Health Inspection Program sometimes overlap. More grocery stores and convenience stores are selling prepared foods. The Maine Restaurant Association recognizes that inspectors from each agency have their own areas of expertise, so is not in favor of consolidating inspection systems.

Mr. Greg Dugal, Executive Director of the Maine Innkeepers Association, shared a letter with the Board and summarized a few points for the Board:

1. He wishes to say “Thank You”. The business climate is improving, thanks in part to the Small Business Advocate and the new Taxpayer Advocate, who have been important additions.
2. Processes could be consolidated to improve speed.
3. The Maine Revenue Service conducts reviews, requests more information, but does not provide feedback promptly to indicate where problems lay.
4. The Department of Economic and Community Development’s Account Executives are doing a great job helping businesses.
5. Conflicts continue regarding interpretation and enforcement of the National Fire Safety Code, especially between the State Fire Marshal’s Office and town officials.

Issues **Mr. Dugal** requested the Board to address:

1. State and local requirements should be streamlined, as businesses are too often held hostage to two sets of interpretations.
2. Sales tax audits should have a defined completion deadline.

Ms. Catherine Weare, owner, The Cliff House in York, offered testimony, reading a letter prepared and presented to the Board. In summary, Ms. Weare feels aggrieved by one of the Town of York’s two fire chiefs who has demanded that she update the fire alert systems at her inn. She has achieved a compromise at a cost of \$30,000 but is concerned about future action against her and other business owners.

Dr. Emmanuel Amoah, a dental surgeon from Glenburn, offered testimony regarding his difficulty obtaining a Maine dental license. He said he received his undergraduate dental degree from the University of Ghana in 1999 (top of his class), where he ultimately served as the head of its dental department. In YEAR, he came to the United States where he completed a practical program at University of Pennsylvania. At University of Connecticut, he taught dental school graduates, and worked for three years as a licensed dentist at a clinic in Connecticut serving thousands of people. In researching this issue, he learned that Maine’s dentist-to-patient ratio is among the worst in the country. He asserted that because Maine is so short on dentists, physicians are now required to do emergency dental work, despite their lack of dental training. Nurses, pharmacists and other licensed medical professionals are not subject to such licensing restrictions, he said.

In Maine, he is considered ineligible for a license as the University of Ghana is not recognized as accredited by the American Dental Association Commission on Dental Accreditation (ADA CODA). He said he could understand this if he had no other training than his undergraduate degree, or if he had not served so many patients. He said the Maine Board of Dental Examiners is recommending that he return to Boston University or Tufts University where he should complete two years of additional clinical training, which he considers to be redundant in light of his training and experience since arriving in the United States.

In response to questions, **Dr. Amoah** stated that he has been licensed in both Connecticut and Virginia. He truly enjoys living in Maine, and would like to practice here. He said that moving out of state would be very difficult for his family. The exams he completed are regional exams. He paid \$12,000 to bring patients to the University of Virginia to demonstrate his skills and achieve his certificates. The Maine Board of Dental Examiners decision requires him to re-

take many such exams. He saw approximately 50 patients a week, but the additional mandated training would have him treat 3-4 patients per week in a program similar to one he once taught.

Mr. David Loveday and **Ms. Tonya Lubner** of the national Water Quality Association (WQA) offered testimony. **Mr. Loveday** stated that Maine requires licensed plumbers to file permits and complete installation of water treatment equipment. **Ms. Lubner** explained that water treatment equipment is not a matter of “out-of-the-box” installation. Follow-up water tests must be completed to ensure the equipment is working effectively. Equipment must be sized correctly and that water pressure issues are addressed. WQA has established an education program to train technicians in installation, testing, and monitoring of this equipment. WQA programs train people in plumbing-related issues, such as cross-connections and backflow. Texas and Wisconsin have established a water specialist licensing programs. Plumbers do not necessarily know what is in the water and how to best treat it.

Mr. Dan Cote of Aquamax in Lewiston offered testimony. He met with Governor LePage some months ago to discuss these issues in regards to energy savings. The Governor asked him to invite the Water Quality Association to the RFB meeting. Too often, consumers buy equipment that is overpriced and misapplied. Maine has arsenic and radon issues, so certification is very important to ensure proper application, installation, and follow-up monitoring.

Mr. Kevin Kaserman of Dunbar Pumps in Wells offered testimony. The misapplication issue is a big concern. The chemistry and follow-up of installations is extremely important. **Ms. Kuhl** asked about treating water discharge. Mr. Kaserman agreed that discharge management is very important.

Mr. Eric Wilson of The Water Doctors in Bath offered testimony. Water treatment equipment application is the key. The plumbing piece is minor by comparison. Town code enforcement officers interpret the rules differently. **Chairman Summers** inquired about increased costs as a result of specialty licenses. Mr. Wilson said that reducing misapplications actually saves consumers money.

John Stewart of the Maine Medical Marijuana Caregivers Association (he lives in Washington, Maine) offered testimony. He stated that the medical marijuana law granted fee-setting and rulemaking authority to DHHS. He clarified the distinction between “routine technical rules” and “major substantive rules”. He does not think DHHS has the rulemaking authority to establish the \$300 fee charged per year for each of up to five patients allowed to caregivers. He said there is no proper justification for this fee, especially because the Department does very little as a result. He asserted that the state has no role in the caregiver/patient relationship. The Association is advocating eliminating rulemaking in this matter. He stated that should he fail to pay this fee, law enforcement authorities may enter his home, seize his plants, and charge him with illegal possession of marijuana. DHHS restricts caregivers to only being allowed to hire one employee (under rulemaking), and that the employee’s background must be checked. This adds significant cost to his business. Every caregiver is required by the state of Maine to admit that they are in violation of federal law. He believes the Governor can issue an emergency bill to cap this fee. He advocates for a cap of \$50 per patient for a total of \$250 per year. **Chairman Summers** asked about what the fee is used for. **Mr. Stewart** replied that the fee covers the cost of two employees, the program director and assistant. With the eight licensed dispensaries, which are charged \$15,000 per year, and the number of caregivers, this program could earn as much as \$750,000 per year.

Catherine Lewis of the Maine Medical Marijuana Caregivers Association offered testimony. Her members are part of creating 600 jobs in Maine. Agriculture supply stores, electricians and others are benefiting from this industry. Caregivers pay 5% and 7% in sales tax, without any small business tax deductions. She urges the state to consider the job growth potential when regulating this industry.

Justin Denison, a medical marijuana caregiver, offered testimony. He is a former patient. He would like the state to loosen restrictions for growing marijuana plants, allowing him to grow plants outdoors by sunlight in a secure fence, rather than in an indoor lab with artificial light. This would help caregivers save a considerable amount of money. **Mr. Denison** offered further testimony regarding the commercial fishing industry. He has had great difficulty getting a lobster fishing license in Maine. He believes that the trade association purposely restricts the number of licensees to enable current licensees to make more money. Some parents buy licenses for their four-year old children with hopes they will be licensed when becoming adults. The lobster apprenticeship program discriminates against non-family related potential licensees.

Rep. Brad Moulton offered testimony. He represents House District 149: York, Wells, and Kittery. He and members of his family have worked at the Cliff House Resort in York. With regard to fire safety codes, he attested that there exists a problem in the relationship between local fire departments and the State Fire Marshal's office, especially when addressing issues such as ingress/egress, fire extinguishers, the Americans with Disabilities Act, and other regulations. New fire chiefs referring to the Life Safety Code are not properly referring to the State Fire Marshal. He encourages this Board to look at this relationship. He believes it is great that we have annual inspections of businesses, but when decibel levels that met original standards but no longer meet current standards is a significant problem. He said buildings must meet certification and code standards at the time they are built. As over 200 businesses are inspected each year, insisting that each meet current standards would create tremendous hardship. He assured the Board that **Ms. Weare** has made a significant investment into her facility to offer visitors to this state an excellent and safe facility.

He said he often runs into licensing issues, for instance: he knows one doctor who is licensed in two other states but cannot receive a license in Maine. He commented that he believes water treatment certification is needed. He thanked the Board for volunteering to address these issues.

After requesting further comment and hearing none, **Chairman Summers** closed the public comment session.

Chairman Summers inquired about the next meeting. **Mr. Martin** suggested that the Board compare calendars to determine the best date. In response to an inquiry, **Chairman Summers** said that the Board will receive written comments at any time. **Mr. Martin** offered to share the news release announcing future meetings with anyone who wished to share their contact information with him.

Motion by Chairman Summers to adjourn

Seconded by Mr. Tyler

Voted: unanimous

NEXT MEETING: To be determined.

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